



Legislative Bulletin.....September 6, 2007

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H.R. 811 — Voter Confidence and Increased Accessibility Act of 2007

Summary of the Bill Under Consideration Today:

Total Number of New Government Programs: 2

Total Cost of Discretionary Authorizations: \$1.6 billion over six years

Effect on Revenue: “insignificant”

Total Change in Mandatory Spending: “insignificant”

Total New State & Local Government Mandates: Numerous

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don’t Cite Specific Clauses of Constitutional Authority: 1

H.R. 811 — Voter Confidence and Increased Accessibility Act of 2007 *(Holt, D-NJ)*

Order of Business: The bill is scheduled for consideration on Thursday, September 6, 2007, likely subject to a closed rule.

Summary: H.R. 811 would make a number of changes to federal election law, specifically regarding the audit capacity of voting systems, as follows:

- Requires that each voting system used in an election for federal office meet the following requirements:
 - require the use of or produce an individual, durable, voter-verified paper ballot of the voter’s vote that is to be created by or made available for inspection and verification by the voter before the voter’s vote is cast and counted;
 - provide the voter with an opportunity to correct any error made by the system; and

- must not preserve the voter-verified paper ballots in any manner that makes it possible, at any time, to associate a voter with the record of the voter's vote.
- Requires paper ballots to be suitable for a manual audit equivalent to that of a paper ballot voting system, and to be counted by hand in any recount or audit conducted with respect to any election for federal office.
- Establishes certain rules for the treatment of disputes when paper ballots have been shown to be compromised.
- Authorizes \$3 million for the National Institute of Standards and Technology (NIST) to study, test, and develop best practices to enhance the accessibility of ballot verification mechanisms for individuals with disabilities, for voters whose primary language is not English, and for voters with difficulties in literacy. The Director of the Institute is specifically required to investigate existing and potential methods or devices that will assist these individual sand voters in creating voter-verified paper ballots.
- Prohibits the use of any wireless, power-line, or concealed communication device from being used for any voting system, except those certified for use by the state and which cannot be used for any remote or wide-area communications or used without the knowledge of poll workers.
- Requires the manufacturers of and election officials for any voting system used in a federal election to meet certain requirements, including documenting the secure chain of custody for the handling of all software, hardware, vote storage media, ballots, and voter-verified ballots used in connection with the system.
- Requires election officials, at each polling place for a federal election to offer each individual who is eligible to cast a vote, the opportunity to cast the vote using a pre-printed paper ballot which the individual may mark by hand and which is not produced by a direct recording electronic voting machine.
- Authorizes such sums as necessary for the Election Assistance Commission to establish an escrow account (to be known as the Testing Escrow Account), to be used for making payments to accredited laboratories for the costs of the testing carried out in connection with the certification, decertification, and recertification of voting system hardware and software.
- **Establishes a new grant program at NIST**, to be used to provide grants to at least three eligible entities (defined in the bill) to conduct research on the development of election-dedicated voting system software. The bill authorizes \$1.5 million for each of fiscal years 2007 and 2008 for this new program.
- **Authorizes \$1 billion in FY 2007** for grants to states to cover the cost of producing a paper record of each voter's ballot.
- Allows individuals aggrieved by a violation of this law to file a written complaint with the Attorney General.
- Requires states to administer, without advance notice to the precincts selected, audits of the results of elections for federal office, consisting of random hand counts of the voter-verified paper ballots, and outlines certain courses of actions based upon the results of these audits.
- Directs the Election Assistance Commission to make payments to states to cover the costs incurred by a state in carrying out random precinct audits. The bill authorizes \$100 million in FY 2008, and each succeeding year, for these payments. According to CBO, the Election Assistance Commission would need "more than 30 new staff" in order to carry out the provisions of this legislation.

All of the provisions of this legislation would be effective for the **November 2008** election, except for the requirement that paper ballots be available at all polling places for federal elections (November 2010).

Additional Information: According to the Minority Views included in Committee Report [110-154](#):

“In our view, H.R. 811 would not accomplish the objectives that the majority purports are needed to ensure integrity and increased voter confidence in U.S. elections. In fact, this bill would do everything to promote a false sense of security and diminish confidence in our elections. H.R. 811 would undermine the goals and the true reforms of the bipartisan Help America Vote Act of 2002. ...If the goal is to provide a secure fraud-proof election process, which we support, H.R. 811 as currently written falls woefully short and in the words of one election official in one of the largest counties in the nation, is ‘ill-conceived and unworkable’.”

The Minority Views outline in detail the opinion of Minority Members on the Committee and their list of concerns associated with the legislation. To view the entire section, please see the [Committee Report](#).

Possible Conservative Concerns: Some conservatives may be concerned at the numerous federal mandates on states and localities contained in this legislation, as well as the fast-approaching deadline (November 2008) for the compliance with such mandates. A group that represents the vendors of the optical scanners to produce paper ballots told an RSC office that it could take up to 54 months to make the updates required by this legislation—far beyond the November 2008 deadline.

Some conservatives may also be concerned at the explicit prohibition on the use of new voting technologies (i.e. the use of the Internet, wireless technologies, etc.) and the requirement that paper ballots be available at all polling places holding federal elections, thereby preventing that voting practices from keeping pace with modern technological and security advances.

Committee Action: H.R. 811 was introduced on February 5, 2007, and referred to the Committee on House Administration, which considered it, held a mark up, and passed the bill by a vote of 6-3, on May 16, 2007.

Cost to Taxpayers: According to CBO, implementing H.R. 811 would authorize about \$1 billion in FY 2007, and about \$1.6 billion over six years.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the program creates two new programs.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: CBO notes that the Unfunded Mandates Reform Act specifically excludes from the application of that Act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that the provisions of H.R. 811 would fall within that exclusion because they would protect individuals’ voting rights. Therefore, CBO has not reviewed this bill for mandates.

Nevertheless, the bill contains numerous mandates on states and localities, as detailed above. Although the bill does authorize federal funds to help states and localities comply with these mandates, the early deadline (November 2008) is widely seen as nearly impossible to meet.

Earmark Compliance: According to the Committee Report, the “H.R. 811 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(t) of rule XXI.”

Constitutional Authority: The House Administration Committee cites Article I, Section 4 of the Constitution, Clause 1 of which grants Congress the power to “at any time by Law make or alter such Regulations [on the state-prescribed election procedures].”

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